

Court of Appeals, State of Michigan

ORDER

Sarah Gerber v Darlene Eisenmann

Docket No. 352707

LC No. 2018-050721-CZ

Karen M. Fort Hood
Presiding Judge

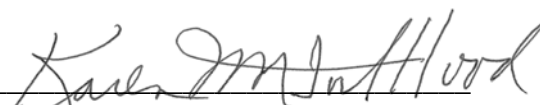
Christopher M. Murray

Cynthia Diane Stephens
Judges

Pursuant to MCR 7.205(E)(2), and in lieu of granting leave to appeal, the Court orders that the Lenawee Probate Court's January 24, 2020 order, denying defendants' motion to amend affirmative defenses is VACATED. A defendant's motion for leave to amend affirmative defenses should be freely granted when justice so requires and when it will not result in prejudice to the plaintiff. MCR 2.118(A)(2); *Southeast Mich Surgical Hosp LLC v Allstate Ins Co*, 316 Mich App 657, 663; 892 NW2d 434 (2016). Such a motion should be denied only for reasons of "[1] undue delay, [2] bad faith or dilatory motive on the part of the movant, [3] repeated failure to cure deficiencies by amendments previously allowed, [4] undue prejudice to the opposing party by virtue of allowance of the amendment, [and 5] futility." *Weymers v Khera*, 454 Mich 639, 658; 563 NW2d 647 (1997) (quotation marks and citation omitted, alterations in original). The trial court should specifically state on the record its reasons for denying a motion to amend. *Id.* at 659. The trial court here did not clearly identify an appropriate reason for denying defendants' motion. This matter is REMANDED for reconsideration of defendants' motion to amend its affirmative defenses to include the defense of laches.

This order is to have immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.


Presiding Judge

Murray, C. J., would deny the application for leave to appeal and grant the motion to deny application.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

April 22, 2020

Date


Chief Clerk